

## Law Office of James M. Wines

1802 Stirrup Lane | Alexandria, VA 22308  
202.297.6768 | [winesj@wineslegal.com](mailto:winesj@wineslegal.com)  
Licensed in New York and Washington DC  
Not licensed to practice in Virginia

October 16, 2019

Honorable Denise L. Cote  
United States District Court  
500 Pearl Street  
New York, NY 10007

Re: Securities and Exchange Commission v. Lek Securities Corp., et al.  
Case No. 17 CV 1789 (DLC)

Your Honor:

I write to object to the Plaintiff's proposed demonstrative "Demaio Slides" (attached hereto). Mr. DeMaio is an SEC witness and current FINRA regulator. Mr. DeMaio is not a fact witness of the underlying conduct, but rather a fact witness of the subsequent investigation into that conduct and the contacts that his office had with Lek Securities. In the Final Pretrial Conference, Your Honor ruled that Mr. DeMaio's testimony must remain appropriately "tethered" to that investigation, and cannot veer improperly so as to constitute expert testimony.

The SEC's proposed demonstrative is intended to illicit improper expert testimony from Mr. Demaio. It appears to be a step-by-step illustrative description of hypothetical cross-market strategy trading. This description was not part of Mr. Demaio's investigation and does not correspond to any of the investigative materials turned over by FINRA as part of the discovery in this case. Rather, it appears to be intended to guide Mr. Demaio so that he can opine that the cross-market strategy is manipulative generally by demonstrating how the trading in equities impacts the price of options as alleged by the SEC. Because this testimony is expert testimony not sufficiently tethered to FINRA's investigation, the demonstrative and the testimony that it suggests should be precluded by the Court.

Respectfully submitted,



James Wines